

CLOSED

**U.S. District Court
District Of Montana (Butte)
CIVIL DOCKET FOR CASE #: 2:07-cv-00027-SEH**

Lovaas v. Bureau of Land Management et al
Assigned to: Judge Sam E Haddon
Case in other court: 9th Circuit, 08-36068
Cause: 05:552 Freedom of Information Act

Date Filed: 04/05/2007
Date Terminated: 10/29/2008
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Patty Lovaas

represented by **James P. O'Brien**
O'BRIEN LAW OFFICE
500 North Higgins Ave
Suite 200
Missoula, MT 59802
406-721-0660
Fax: 721-0664
Email: jpoblaw@yahoo.com
ATTORNEY TO BE NOTICED

Plaintiff

Elkhorn Hot Springs, Inc.

represented by **James P. O'Brien**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Bureau of Land Management

represented by **Victoria L. Francis**
OFFICE OF THE U.S. ATTORNEY
P O Box 1478
Billings, MT 59103-1478
406-657-6101
Fax: 406-657-6058
Email: victoria.francis@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Department of the Interior

represented by **Victoria L. Francis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Tim Bozorth
Field Manager

represented by **Victoria L. Francis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Joe Casey
Forester

represented by **Victoria L. Francis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Gerald Moore
Solicitor

represented by **Victoria L. Francis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

John Does
1 through 20

Date Filed	#	Docket Text
04/05/2007	<u>1</u>	Notice of Filing <i>Notice of Removal</i> by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey (Francis, Victoria) (Entered: 04/05/2007)
04/05/2007	<u>2</u>	NOTICE OF REMOVAL by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey from Montana Fifth Judicial District Court, case number DV 07-13023. (Filing fee \$ 350), filed by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit)(Francis, Victoria) (Entered: 04/05/2007)
04/23/2007	<u>3</u>	ANSWER to Complaint by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey.(Francis, Victoria) (Entered: 04/23/2007)
05/01/2007	<u>4</u>	REPLY filed by Plaintiff Patty Lovaas re: <u>3</u> Answer to Complaint filed by Patty Lovaas. (ELL,) (Entered: 05/04/2007)
06/21/2007	<u>5</u>	Mailing of Consent to Pro Se Pla Lovaas. Electronically notified counsel Timothy J. Cavan, Victoria L. Francis Consent/Objection to USMJ Form due by 7/27/2007. (Attachments: # <u>1</u> Consent US Magistrate Judge) ATTACHED CONSENT FORM IS TO BE PRINTED SIGNED BY ATTORNEYS AND MAILED BACK TO THE CLERKS OFFICE BY 7/27/07.(ell) (Entered: 06/21/2007)
10/17/2007	<u>6</u>	ORDER REASSIGNING CASE. Case reassigned to Judge Sam E. Haddon for all further proceedings. Signed by Judge Sam E. Haddon on 10/17/2007. (ell) (Entered: 10/18/2007)
10/17/2007		Judge Keith Strong no longer assigned to case. (ell) (Entered: 10/18/2007)
10/17/2007	<u>7</u>	Order Setting: Joint Proposed Discovery due by 12/5/2007., Preliminary Pretrial Statement due by 12/5/2007., Pretrial Conference set for 12/14/2007 10:30 AM in Butte, MT before Judge Sam E. Haddon.. Signed by Judge Sam E. Haddon on 10/17/2007. (ell) (Entered: 10/18/2007)
12/05/2007	<u>8</u>	PRELIMINARY PRETRIAL STATEMENT by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. (Francis, Victoria) (Entered: 12/05/2007)
12/05/2007	<u>9</u>	JOINT DISCOVERY PLAN by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. (Francis, Victoria) (Entered: 12/05/2007)
12/13/2007	<u>10</u>	MOTION to Continue PPT Conference set for 12/14/07 by Patty Lovaas. (ELL,) (Entered: 12/13/2007)
12/19/2007	<u>11</u>	Order Setting: Amended Pleadings due by 1/18/2008., Motions due by 2/15/2008., Preliminary Pretrial Statement due by 1/4/2008. Pla motion to continue is DENIED. Signed by Judge Sam E Haddon on 12/18/2007. Hard copy mailed to Patty Lovas by US Mail.(ELL,) (Entered: 12/19/2007)
01/03/2008	<u>12</u>	PRELIMINARY PRETRIAL STATEMENT by Patty Lovaas. (ELL,) (Entered: 01/03/2008)

01/07/2008	<u>13</u>	NOTICE by Gerald Moore, John Does, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey <i>TO CLERK TO TERMINATE ATTORNEY NOTIFICATION (OF AUSA CAVAN) IN CM/ECF RECORDS</i> (Cavan, Timothy) (Entered: 01/07/2008)
01/08/2008		Remark. Attorney Tim Cavaan deleted from case pursuant to Notice filed. (ELL,) (Entered: 01/08/2008)
01/16/2008	<u>16</u>	AMENDED COMPLAINT against Gerald Moore, John Does, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey, filed by Patty Lovaas. (Attachments: # <u>1</u> Exhibit)(ELL,) (Entered: 01/18/2008)
01/17/2008	<u>14</u>	NOTICE of Appearance by James P. O'Brien on behalf of Patty Lovaas (O'Brien, James) (Entered: 01/17/2008)
01/17/2008	<u>15</u>	Notice of Joinder by Elkhorn Hot Springs, Inc. re: <u>11</u> Order Setting, (O'Brien, James) (Entered: 01/17/2008)
02/15/2008	<u>17</u>	NOTICE by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey (<i>VAUGHN INDEX per Court Order dated 12/19/2007</i>) (Attachments: # <u>1</u> Exhibit 1 – Letter dated 09/20/06 from Lovaas to Tim Bozorth, BLM Field Manager# <u>2</u> Exhibit 2 – Letter dated 10/13/06 from Berain, BLM Dep. State Director to Lovaas# <u>3</u> Exhibit 3 – Letter dated 10/22/06 from Lovaas to Berain, BLM Dep. State Director# <u>4</u> Exhibit 4, Letter dated 01/03/07 from Gene Terland, BLM State Director to Lovaas# <u>5</u> Exhibit 5, Letter dated 05/14/07 from Berain, Acting State Director to Lovaas# <u>6</u> Exhibit 6, Letter dated 11/16/07 from Howard Lemm, BLM Acting State Director to Lovaas# <u>7</u> Exhibit 7, Letter dated 02/14/2008 from Terland BLM State Director to Lovaas)(Francis, Victoria) (Entered: 02/15/2008)
02/15/2008	<u>18</u>	MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. Responses due by 3/14/2008. (Francis, Victoria) (Entered: 02/15/2008)
02/15/2008	<u>19</u>	MOTION for Summary Judgment by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. Responses due by 3/14/2008. (Francis, Victoria) (Entered: 02/15/2008)
02/15/2008	<u>20</u>	DECLARATION re <u>19</u> MOTION for Summary Judgment, <u>18</u> MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) filed by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. (Attachments: # <u>1</u> Exhibit A – List of Individual Cited; List of Acronyms; Names and Titles of Employees Who Searched for Hard Copy and Electronic Records; Searches Performed)(Francis, Victoria) (Entered: 02/15/2008)
02/15/2008	<u>21</u>	Brief/Memorandum in Support re <u>19</u> MOTION for Summary Judgment, <u>18</u> MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) filed by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. (Francis, Victoria) (Entered: 02/15/2008)
03/14/2008	<u>22</u>	RESPONSE to Motion re <u>19</u> MOTION for Summary Judgment, <u>18</u> MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) filed by Patty Lovaas. (Attachments: # <u>1</u> Affidavit)(O'Brien, James) (Entered: 03/14/2008)
04/11/2008	<u>23</u>	REPLY to Response to Motion re <u>18</u> MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) MOTION to Dismiss for Lack of Jurisdiction

		(<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) filed by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. (Francis, Victoria) (Entered: 04/11/2008)
04/11/2008	<u>24</u>	DECLARATION re <u>23</u> Reply to Response to Motion, filed by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. (Attachments: # <u>1</u> Letter dated 10/11/2006 from BLM to Western Surety Co.# <u>2</u> Letter dated 10/30/2006 from BLM to Western Surety Co.)(Francis, Victoria) (Entered: 04/11/2008)
04/16/2008	<u>25</u>	DECLARATION re <u>23</u> Reply to Response to Motion, (<i>SECOND SUPPLEMENTAL DECLARATION</i>) filed by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey. (Francis, Victoria) (Entered: 04/16/2008)
04/30/2008		Set/Reset Deadlines as to <u>19</u> MOTION for Summary Judgment, <u>18</u> MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>). Motions ripe 4/11/2008. (ELL,) (Entered: 04/30/2008)
05/28/2008	<u>26</u>	ORDER Setting Hearing on Motion <u>19</u> MOTION for Summary Judgment, <u>18</u> MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) : Motion Hearing set for 6/6/2008 02:00 PM in Butte, MT before Judge Sam E Haddon.. Signed by Judge Sam E Haddon on 5/28/2008. (ELL,) (Entered: 05/29/2008)
06/06/2008	27	Minute Entry for proceedings held before Judge Sam E Haddon: Motion Hearing held on 6/6/2008 re <u>19</u> MOTION for Summary Judgment filed by Department of the Interior, Bureau of Land Management, Joe Casey, Gerald Moore, Tim Bozorth, <u>18</u> MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) MOTION to Dismiss for Lack of Jurisdiction (<i>MOTION TO DISMISS AMENDED COMPLAINT OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT</i>) filed by Department of the Interior, Bureau of Land Management, Joe Casey, Gerald Moore, Tim Bozorth. Present in courtroom are cnsl for pla James P. O'Brien and cnsl for dft Victoria Francis. Stmts by ea cnsl. Court will continue the matter. Pla has until 6/13/08 to submit stmt of all docs that have not been produced and dft will have 3 weeks from submission to respond. (Court Reporter Tina Brilz.) (ELL,) (Entered: 06/06/2008)
06/11/2008	<u>28</u>	ORDER re 27 Motion Hearing ORDERED 1. On or before 6/13/08 Pla shall file a stmt with the Court describing ea doc w/in the ambit of Pla Patty Lovass' 9/29/06 Freedom of Info Act request to the BLM. 2. On or before 7/3/08 dft shall search BLM's records for the docs and file a report with the Court.. Signed by Judge Sam E Haddon on 6/11/2008. (ELL,) (Entered: 06/11/2008)
06/13/2008	<u>29</u>	Brief/Response to Order <i>Plaintiffs' Response to Court's Order of June 6, 2008</i> filed by Patty Lovaas, Elkhorn Hot Springs, Inc.. (O'Brien, James) (Entered: 06/13/2008)
07/03/2008	<u>30</u>	NOTICE by Gerald Moore, Bureau of Land Management, Department of the Interior, Tim Bozorth, Joe Casey re <u>28</u> Order, [<i>NOTICE OF FILING DEFENDANTS' RESPONSE TO COURT ORDER DATED JUNE 10, 2008 (containing Statement of Documents Released, First Supplement to Vaughn Index, and Report of Identified Documents)</i>] (Attachments: # <u>1</u> Exhibit A – Narrative for Dyce Creek Files Unresponsive to FOIA Request) (Francis, Victoria) (Entered: 07/03/2008)
07/07/2008	<u>31</u>	Remark; SEH chambers brought to clerk's office the following items for docketing/receipt: From USA one black notebook: "In Camera Documents, Submission No. 2" as sent to SEH chambers by AUSA Francis, (provided pursuant

		to Orders dated 12/19/07 and 6/10/08). (note to cns1: All Documents should be sent to Clerk for receiving, not to Judge's chambers). (LAM,) (originals sent back to SEH chambers for further review) (LAM,) (Entered: 07/07/2008)
07/17/2008	<u>32</u>	Minute Entry for proceedings held before Judge Sam E Haddon: Telephone Conference held on 7/17/2008. (SLR,) (Entered: 08/01/2008)
10/29/2008	<u>33</u>	ORDER denying as moot <u>18</u> Motion to Dismiss for Lack of Jurisdiction; granting <u>19</u> Motion for Summary Judgment. The Clerk is directed to enter judgment accordingly. Signed by Judge Sam E Haddon on 10/29/2008. (ELL,) (Entered: 10/29/2008)
10/29/2008	<u>34</u>	CLERK'S JUDGMENT in favor of Bureau of Land Management, Department of the Interior, Gerald Moore, Joe Casey, Tim Bozorth against Elkhorn Hot Springs, Inc., Patty Lovaas. Signed by Judge Sam E Haddon on 10/29/2008. (ELL,) (Entered: 10/29/2008)
11/03/2008	<u>35</u>	Receipt of in Camera Document in Civil Case consisting of Governments in camera documents contained in (2) 3 ring binders. (ELL,) (Entered: 11/04/2008)
12/23/2008	<u>36</u>	NOTICE OF APPEAL as to <u>33</u> Order on Motion to Dismiss/Lack of Jurisdiction, Order on Motion for Summary Judgment by Patty Lovaas, Elkhorn Hot Springs, Inc.. Filing fee \$ 455, receipt number 40892. (Attachments: # <u>1</u> District Court Order Granting Summary Judgment, # <u>2</u> Civil Appeals Docketing Sheet, # <u>3</u> Statement of Representation) (O'Brien, James) (Entered: 12/23/2008)
12/24/2008	<u>37</u>	Appeal Notification Form re <u>36</u> Notice of Appeal, (ELL,) (Entered: 12/24/2008)
12/29/2008		USCA Appeal Fees received \$ 455 receipt number MTX9000001957 re <u>36</u> Notice of Appeal, filed by Patty Lovaas, Elkhorn Hot Springs, Inc., Receipted in Missoula. (ELL,) (Entered: 12/29/2008)
01/05/2009	<u>38</u>	USCA Case Number 08-36068 for <u>36</u> Notice of Appeal, filed by Patty Lovaas, Elkhorn Hot Springs, Inc.. (ELL,) (Entered: 01/05/2009)
01/05/2009	<u>39</u>	USCA Scheduling Order as to <u>36</u> Notice of Appeal, filed by Patty Lovaas, Elkhorn Hot Springs, Inc.. (ELL,) (Entered: 01/05/2009)
10/13/2009	<u>40</u>	USCA Scheduling Order as to <u>36</u> Notice of Appeal, filed by Patty Lovaas, Elkhorn Hot Springs, Inc.. Appellants opening brf due 1/11/10; appellee's brf due 2/10/10; reply due 14 days from service of ans brf. (ELL,) (Entered: 12/10/2009)
02/05/2010	<u>41</u>	TRANSCRIPT OF MOTION HEARING PROCEEDINGS, held on June 6, 2008, before Judge Sam E. Haddon. Court Reporter, TINA C. BRILZ, RPR, FCRR, Telephone number 406-454-7805 or tina_brilz@mtd.uscourts.gov. Tape Number: TRANSCRIPT OF MOTION HEARING PROCEEDINGS. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER, the Clerks Office, or from the court reporter. NOTICE: A NOTICE OF INTENT TO REQUEST REDACTION MUST BE FILED WITHIN 14 DAYS OF THIS FILING Redaction Request due 2/26/2010. Redacted Transcript Deadline set for 3/8/2010. Release of Transcript Restriction set for 5/6/2010. (TCB,) (Entered: 02/05/2010)
08/31/2010	<u>42</u>	MEMORANDUM of USCA as to <u>36</u> Notice of Appeal, filed by Patty Lovaas, Elkhorn Hot Springs, Inc. Affirming. (ELL,) (Entered: 08/31/2010)
12/07/2010	<u>43</u>	MANDATE of USCA as to <u>36</u> Notice of Appeal, filed by Patty Lovaas, Elkhorn Hot Springs, Inc. (CRM,) (Entered: 12/08/2010)